

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

UNITED STATES OF AMERICA

Case No. 5:10-cr-00005

v.

MEMORANDUM OPINION

**PAUL MICHAEL JOHNSON,
Petitioner.**

**By: Hon. Michael F. Urbanski
United States District Judge**

Paul Michael Johnson, a federal inmate proceeding pro se, filed a letter that the court construes as a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 because Petitioner challenges the legality of his conviction and sentence. Court records indicate that the court already dismissed (Dkt. No. 76) a prior § 2255 motion (Dkt. No. 71) by which Petitioner could have raised the instant challenge. Thus, the construed § 2255 motion is a second or subsequent motion under 28 U.S.C. § 2255(h). See, e.g., United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014).

The court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive § 2255 motion, the court dismisses the construed § 2255 motion without prejudice as successive. Based upon the court's finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

Entered: April 14, 2015

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge